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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,291

04/08/2005

Patrice Beaudou

76.0731 US

2820

41754

7590

07/30/2009

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EXAMINER

ALMEIDA, DEVIN E

ART UNIT

PAPER NUMBER

2432

MAIL DATE

DELIVERY MODE

07/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/507,291	<b>Applicant(s)</b> BEAUDOU ET AL.	
	<b>Examiner</b> DEVIN ALMEIDA	<b>Art Unit</b> 2432	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This action is in response to the papers filed 6/6/2009.

### ***Response to arguments***

Applicant's arguments with respect to claim have been considered and are persuasive. However, a revised search has resulted in discovery of new prior art that forms the basis for new ground(s) of rejection. The delay in presentation of the newly discovered prior art is regretted.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (U.S. 5,615,267).

With respect to claim 1, a method of updating an authentication algorithm in at least one data processing device which can store in a memory element of said device a subscriber identity which is associated with a first authentication algorithm, comprising: a preliminary step of storing a second inactive authentication algorithm in a memory element of the device (see column 4 lines 28-45), a step for switching from the first authentication algorithm to the second authentication algorithm, including inhibiting the

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first authentication algorithm and activate the second authentication algorithm (see column 4 lines 28-45).

With respect to claim 2, wherein the switching step is carried out on the initiative of an entity external to said device (see column 5 line 48 – column 6 line 37).

With respect to claim 3, method according to claim 1 or 2, wherein to perform the switching operation, the entity external to said device transmits a command remotely to said device in order to switch from the first authentication algorithm to the second authentication algorithm (see column 5 line 48 – column 6 line 37).

With respect to claim 4, wherein to perform the switching operation, the entity external to said device downloads into the device a program which can start up after a time delay and whose purpose is to switch from the first authentication algorithm to the second authentication algorithm (see column 5 line 48 – column 6 line 37).

With respect to claim 5, wherein during the pre-storage step, a second code (ESN-MIN), different from a code associated with the first algorithm and associated with the algorithm, is stored, and wherein after the step for switching accounts on said device, said device transmits the code to all or some of the data processing devices whose algorithms need to be switched, said second code associated with the second algorithm informing these data processing devices that the algorithms have been switched in order to synchronise the algorithm update (see column 5 line 48 – column 6 line 37).

With respect to claim 6, wherein on reception of the code associated with the second algorithm, said receiving device switches algorithm from the first algorithm to the second algorithm (see column 4 lines 28-45).

With respect to claim 7 wherein after switching, the memory space storing the data associated with the deactivated account is reused (see column 4 lines 28-45).

With respect to claim 8, a data processing device, in particular a smart card which can store a subscriber identity (unique identifier) and which is associated with an authentication algorithm (see column 9 lines 14-59 i.e. Pin or Encryption key), comprising:

memory means storing a second authentication algorithm (see column 4 lines 28-45),

a microcontroller programmed to carry out a step for switching from the first authentication algorithm to the second authentication algorithm, which can inhibit the first authentication algorithm and activate the second authentication algorithm (see column 4 lines 28-45).

With respect to claim 11, a computer storage media operable to store instructions for instructing a data processing device to perform certain operations, the storage media comprising: instructions to direct the data processing device to execute a step for switching from a first authentication algorithm to the second authentication algorithm, which can inhibit the first authentication algorithm and activate the second authentication algorithm (see column 4 lines 28-45).

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With respect to claim 12, further comprising instructions to direct the data processing device to, after the step of switching from the first authentication algorithm to the second authentication algorithm, identify the algorithm used by a transmitting device with the code IMSI2, different from the code IMSI1 and associated with the second authentication algorithm Algo2, received from said transmitting device when the authentication algorithm is executed on the data processing device (see column 4 lines 28-45).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Almeida whose telephone number is 571-270-1018. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 5:00 P.M. The examiner can also be reached on alternate Fridays from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

/Devin Almeida/  
Examiner, Art Unit 2432

/Gilberto Barron Jr./  
Supervisory Patent Examiner, Art Unit 2432